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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,236	09/09/2003	John S. Thomas	5044-002	3473

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EXAMINER

WHITE, RODNEY BARNETT

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,236

Applicant(s)

THOMAS, JOHN S.

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/9/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6, the term "associated" is unclear and confusing language and the term "associated with the bench" is even more confusing. What is this association? Then on lines 6-8, the phrase "wherein when the seat sections assume the extended position the first connectors connect to the legs". This phrase needs clarity because one cannot understand how the connectors connect to the legs only "when the seat sections assume the extended position" when the Applicant has only defined that the "connectors" are only "associated with the bench. There needs to be some more interconnection, or more specifically, details of how those connectors are connected to the bench and how that allows them to connect to the legs when the seat sections assume the extended position. Is this accomplished automatically or is there some manual effort by the user? Looking at the Drawings, specifically Figures 2 and 4A-4B, it appears there is some manual effort or manipulation of the parts to get from

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the folded position shown in Fig. 4B to that shown in Figures 2 and 4A, specifically "strut(s) 24" inserted into "stub sleeve 40".

In claim 11, lines 6-7, the phrase A strut interconnected between each leg and a point "associated with the foldable bench" Again , not only is there the word "associated", the term "point" is unclear and confusing language. Where is this "point"? Applicant needs to remember that a one skilled in the art should be able to construct his product by reading the claims and such general unclear terms as "point" and "associated" does not provide clear instructions or guidance.

In claim 16, lines 6-7, the Applicant again uses terms such as "to a point" and the phrase "such that the leg extends between the leg and the point" is unclear and confusing.

The aforementioned problems render the claims vague and indefinite. Clarification and/or correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts (GB 2 192 534 A)

Roberts teach the use of the structures substantially as claimed including a foldable bench having at least two seat sections 10,20 comprising moving sections from a folded position to an unfolded position, moving a pair of legs 40,50 from a folded position to an unfolded position, stationing the legs in an unfolded position by connecting a strut 46 to each leg and extending the strut to a point such that the strut extends between the leg and point, and in response to a load being placed on the bench, the struts are in compression, pivotally connecting the two seat sections together with a hinge and connecting at least one end of each strut with the hinge when the bench assumes the unfolded position, returning the bench to a folded position by folding the legs to a position adjacent the seat sections and folding the seat sections together such that the legs are sandwiched between the seat sections.

Claims 1-15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claims 17-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

While prior art, such as Roberts (GB 2 192 534 A) teaches a foldable bench with two seat sections and the use of struts, other patents such as Woods (GB 2 074 853 A), Baldwin (US. Patent No. 346,454), and White (U.S. Patent No. 245,903) teaches the

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use of alternative conventional "struts" and tension members such as strut 21 of GB 2 074 853 A, there is no way to modify the Roberts reference (GB 2 192 534 A) to include those structures without destroying it, specifically the compactness and portability of the bench disclosed by Roberts.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. White, Baldwin, Thiboutot, Denomey, Yamasaki, Singer, Mann, Tseng, Liu, Babit, Cassin, Raver, Overdick, Amaducci, Ivey, Shaw, Shearer, Boldin, Spaet, and Webb teach structures and concepts similar to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276. The examiner can normally be reached on 5:30 AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rodney B. White,
Patent Examiner
Art Unit 3636
June 9, 2004


